

Water Treatment Device Certification Program
Drinking Water Program
Department of Health Services

Guidance: Website Marketing

November 2004

The Department considers internet websites to be national marketing brochures, and as such, must comply with the requirements of the Device Certification Program.

If a residential water treatment device is marketed on a website on the basis of health claims and is certified in California, the claims made for the device must be consistent with its California certification.

If a residential water treatment device is marketed on a website on the basis of health claims but is not certified in California, the website must clearly state that the device is not available for sale in California. Every page of the website that includes health claims for the device must state, in a prominent and noticeable manner, that the device is not available for sale in California. The notice must be in a font size at least as large as the maximum font size used to make a health claim.

It is not allowable to make health claims for an uncertified device, or health claims beyond those certified in California, and state that the claims do not apply in California. It is also not allowable to market the same device in two ways on a website: marketing claims for California residents in one place, and marketing claims for non-California residents in another.

Violation(s) of the Device Certification statutes and regulations will result in a Notice of Violation being issued to the marketer and the manufacturer. At our discretion, we will refer the violation(s) to the State Attorney General's Office for prosecution.

The Department will routinely check manufacturers' websites during any application process (including annual renewals) and will conduct general internet searches for residential water filter sales. We will impose the consequences specified in H&SC Section 116840 if there are violations.

Section 116840 of the California Health and Safety Code (H&SC) states "The Department may suspend, revoke, or deny a certificate upon its determination ... that the manufacturer, or any employee or agent thereof, has violated this article, any regulation adopted pursuant to this article (device program regulations), or Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code (B&PC) (False Advertising Law)."

H&SC Section 116840 provides for the assessment of civil penalties up to \$5000 for each violation. B&PC Section 17577.4 provides for the assessment of civil penalties up to \$2500 for each violation. Where the conduct constituting a violation is of a continuing nature, each day of the conduct is a separate and distinct violation. In the case of website violations, we will count days of violation from the date we first observe the violation(s) to the date we are notified and verify that the website is in compliance with California law.